

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

FRANC KREZE,

Plaintiff,

vs.

**COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION**

Defendant.

) **CASE NO. 1:17-CV-1254-DAP**
)
) **JUDGE DAN AARON POLSTER**
)
) **ORDER ADOPTING REPORT**
) **AND RECOMMENDATION**
)
)
)
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Before the Court is the Report and Recommendation of Magistrate Judge David A. Ruiz (“R&R”), Doc #. 13, issued on June 7, 2018, which recommends that the Court reverse the Commissioner’s decision and remand the matter.

Under the relevant statute,

Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1). However, where a party fails to object, a district court is not required to

conduct any review, *de novo* or otherwise, of the report and recommendations of a magistrate judge. *Thomas v. Arn*, 474 U.S. 140, 149–50 (1985). The failure to file written objections also results in a waiver of the right to appeal. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985).

Here, any objections to the R&R are due on June 21, 2018. On June 19, 2018, the Commissioner filed a Response, Doc #: 14, stating that she would not be filing objections to the R&R. Nonetheless, the Court has reviewed the Magistrate Judge’s thorough R&R. The Court agrees with the Magistrate Judge that the ALJ erred in omitting limitations from the residual function capacity (“RFC”) assessment that he ostensibly credited.

Accordingly, the Court **ADOPTS** the Magistrate Judge’s R&R, Doc. # 13, in full, **REVERSES** the Commissioner’s decision, and **REMANDS** Plaintiff’s case to the Social Security Administration for further proceedings consistent with this Order and the R&R.

IT IS SO ORDERED.

/s/ Dan A. Polster June 20, 2018

DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE